



# Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Fortieth Meeting Day

Tuesday Afternoon

April 5, 2005

The Senate convened at 2:34 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Pastor Andy Woodall, Faith Baptist Church, Lafayette, the guest of Senator Ron J. Alting.

The Pledge of Allegiance to the Flag was led by Senator David C. Long.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser <input checked="" type="checkbox"/>	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz <input checked="" type="checkbox"/>
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 344: present 48; excused 2. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

## SENATE MOTION

Madam President: I move that Senator Craycraft be added as cosponsor of Engrossed House Bill 1159.

ZAKAS

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senators Zakas, Steele, Broden, and Bray be added as coauthors of Senate Concurrent Resolution 54.

HEINOLD

Motion prevailed.

## MOTIONS TO DISSENT FROM HOUSE AMENDMENTS

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 329 and that a conference committee be appointed to confer with a like committee of the House.

GARD

Motion prevailed.

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 298 and that a conference committee be appointed to confer with a like committee of the House.

M. YOUNG

Motion prevailed.

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 230 and that a conference committee be appointed to confer with a like committee of the House.

LUBBERS

Motion prevailed.

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 49 and that a conference committee be appointed to confer with a like committee of the House.

FORD

Motion prevailed.

## RESOLUTIONS ON FIRST READING

### House Concurrent Resolution 36

House Concurrent Resolution 36, sponsored by Senator Jackman:

A CONCURRENT RESOLUTION to honor the perseverance and dedication of Superintendent James Peck.

*Whereas, Superintendent James Peck plans to retire from 12 years of leadership within Shelbyville Central Schools;*

*Whereas, Superintendent Peck orchestrated many school improvement efforts to improve the learning environment for all of the 3,700 students in the Shelbyville Central School System;*

*Whereas, Superintendent Peck instilled a reduced budget plan eliminating a \$2 million deficit;*

*Whereas, James Peck graduated from Indiana State University in 1964 with bachelor's and master's degrees in education;*

*Whereas, James Peck has dedicated the past 40 years to education as a teacher and an administrator;*

*Whereas, Superintendent Peck's wife of 35 years Janet, teaches third grade at Coulston Elementary and daughter Jennifer Vasser, teaches kindergarten at Loper Elementary, both in Shelbyville Central Schools;*

*Whereas, Superintendent Peck's son Jim is a junior at Shelbyville High School; and*

*Whereas, Superintendent Peck has given his entire professional life to educating the young people of Indiana and making a difference in their lives: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the House of Representatives of the General Assembly, the Senate concurring do honor and congratulate the educational dedication of Superintendent James Peck.

SECTION 2. That the Principal Clerk of the House of Representatives transmit copies of this resolution to Superintendent James Peck.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

### House Concurrent Resolution 38

House Concurrent Resolution 38, sponsored by Senator Kruse:

A CONCURRENT RESOLUTION honoring Eric Westrick for his outstanding community service.

*Whereas, Eric Westrick, an esteemed resident of Auburn, Jackson Township is honored and recognized for his outstanding community service;*

*Whereas, While attending Dekalb Central school, Eric Westrick, was a three-year member of the cross country team, a two-year member of the track team and a three-year member of the Spanish club;*

*Whereas, Eric Westrick is a member of the National Honor Society and has shown his leadership skills by serving as President of his sophomore class and was elected Vice President of his junior class;*

*Whereas, Eric currently serves as a mentor to five freshman and is also a "DARE" role model;*

*Whereas, Eric Westrick helped run the District Radiothon for the Women's Care Center, the Lions Night at the Wizards and supervised 100 Leos who packed care packages for the troops in Afghanistan at the News Sentinel;*

*Whereas, Eric Westrick has worked at cabinet meetings, council meetings, district conventions, state conventions, and international conventions as well as driving 150 miles by himself in an ice storm the night before mid-winter conference to set up and run the Leo booth;*

*Whereas, Eric Westrick established the Adopt a Grandparent project;*

*Whereas, Eric Westrick reads stories in Spanish to small children at the library on a weekly basis;*

*Whereas, Eric Westrick is going on a ten day eye care mission to Southern Mexico on March 25, 2005;*

*Whereas, Eric Westrick has a 9-year-old "Little Brother" that he cares for in the Big Brothers program;*

*Whereas, Eric Westrick is a "Baron Buddy" serving as a friend to a student in need;*

*Whereas, Eric Westrick's extensive list of community service involvement includes his leading or participating in the Penny Pitch, the Relay for Life, the Literacy Night's program, the club's chili cook-off fund raiser, the "trick or can" Halloween project, the Day with Santa, the collection for Thanksgiving and Christmas family, the chocolate bunny sales, and car washes;*

*Whereas, Eric is the son of Steven and Teresa Westrick; and,*

*Whereas, The success of the State of Indiana, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of people like Eric Westrick who use their considerable talents and resources to serve others: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana House of Representatives, the Senate concurring, do honor and recognize Eric Westrick for his outstanding community service.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this Resolution to Eric Westrick.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

### House Concurrent Resolution 39

House Concurrent Resolution 39, sponsored by Senator Broden:

A CONCURRENT RESOLUTION congratulating the John Adams High School Mock Trial teams for winning first and second place in the state competition.

*Whereas, The mock trial competition is designed to give students first hand experience and a full understanding of the law, court procedures, and the American judicial system;*

*Whereas, The mock trial competition helps participants become better critical thinkers, readers, and speakers;*

*Whereas, The mock trial competition also helps to improve communication between community members, teachers, government leaders, and law professionals;*

*Whereas, For the fifth straight year, a team from John Adams High School in South Bend placed first in the state competition, earning the team a right to represent Indiana at the national trials in Charlotte, North Carolina, in May;*

*Whereas, The gold medal winning team members are juniors Eric Blom, Emily Cahill, Jordan Hurwich, Avatar Joshi, Brandon Mahon, Eric Silverstri, and Stephen Veldman;*

*Whereas, The silver medal winning team members are sophomores Claire Alvis, Ryan Born, Elizabeth Fleming, Ethan Jansen, Laura Jones, Maggie Mansfield, Michael Smythe, and Emily Wine;*

*Whereas, The Most Efficient Attorney award was presented to Caity Lauer and Michael Smythe, and Eric Silverstri received a Most Effective Witness award;*

*Whereas, The teams are coached by Greg Blanford, with the help of distinguished judges and attorneys as well as law students, and are sponsored by dedicated faculty member Judith Overmyer; and*

*Whereas, The hard work and creative legal reasoning of the John Adams High School Mock Trial teams is inspiring to us all:*

*Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the members of the Indiana General Assembly congratulate the members of the John Adams High School Mock Trial teams and urge them to continue to strive for their future goals.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the gold and silver medal winning team members, coach Greg Blanford, faculty sponsor Judith Overmyer, Principal Gene Sweeney, and Superintendent Joan Raymond.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

### House Concurrent Resolution 37

House Concurrent Resolution 37, sponsored by Senator Lutz:

A CONCURRENT RESOLUTION honoring Elizabeth Korb.

*Whereas, Elizabeth Korb, an esteemed resident of Evansville and a student at Signature School, has achieved national recognition for exemplary volunteer service by receiving a 2005 Prudential Spirit of Community Award;*

*Whereas, This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities;*

*Whereas, Elizabeth Korb earned this award by giving generously of her time and energy in organizing fundraisers and other school and community events to help build and supply books for a library in Kenya; and*

*Whereas, The success of the state of Indiana, the strength of our communities, and the overall vitality of American society depend in great measure upon the dedication of young people like Elizabeth Korb, who use their considerable talents and resources to serve others: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the members of the Indiana General Assembly congratulate and honor Elizabeth Korb as a recipient of a Prudential Spirit of Community Award, recognize her outstanding record of volunteer service, peer leadership, and community spirit, and extend best wishes for her continued success and happiness.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Elizabeth Korb.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1250, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-2.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this section, a "power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.

(b) A power subsidiary or a person engaged as a public utility is a retail merchant making a retail transaction when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption.

(c) Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction in any of the following transactions:

- (1) The power subsidiary or person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the services or commodities listed in subsection (b).
- (2) The power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter.
- (3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.
- (4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:

(A) The services or commodities are sold to a business that after June 30, 2004:

- (i) relocates all or part of its operations to a facility; or
- (ii) expands all or part of its operations in a facility; located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, **the part of** an economic development area established under IC 36-7-14.5-12.5 **that is or formerly was a military base (as defined in IC 36-7-30-1(c))**, or a military base recovery site designated under IC 6-3.1-11.5.

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 2. IC 6-3-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) As used in this section, "qualified area" means:

- (1) a military base (as defined in IC 36-7-30-1(c));
- (2) a military base reuse area established under IC 36-7-30;
- (3) **the part of** an economic development area established under IC 36-7-14.5-12.5 **that is or formerly was a military base (as defined in IC 36-7-30-1(c))**; or
- (4) a military base recovery site designated under IC 6-3.1-11.5.

(b) Except as provided in subsection (c), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection (e). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four (4) taxable years.

(c) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

- (1) the taxpayer had existing operations in the qualified area; and
- (2) the operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.

(d) A determination under subsection (c) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.

(e) The department of state revenue:

- (1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area;

and

(2) may adopt other rules that the department considers necessary for the implementation of this chapter.

SECTION 3. IC 6-3.1-11.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. As used in this chapter, "vacant military base facility" means a facility that:

(1) is located in:

(A) **the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c));** or

(B) a military base reuse area established under IC 36-7-30;

(2) was placed in service at least twenty (20) years ago; and

(3) has been vacant for two (2) or more years.

However, subdivision (3) does not apply to a facility that is owned by a municipality, a county, a military base reuse authority, or a redevelopment authority.

SECTION 4. IC 6-3.1-11.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "qualified area" means:

(1) a military base (as defined in IC 36-7-30-1(c));

(2) a military base reuse area established under IC 36-7-30;

(3) **the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c));** or

(4) a military base recovery site designated under IC 6-3.1-11.5."

Page 2, between lines 27 and 28, begin a new paragraph and insert:

**"(d) The legislative body of a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed may establish a redevelopment commission with the number and qualifications of members specified in the ordinance. The ordinance may provide that the redevelopment commission is an economic development corporation or a separate body corporate and politic that is an instrumentality of the county. The ordinance may establish the:**

**(1) number of members that make a quorum;**

**(2) annual or other date when the redevelopment commission will organize;**

**(3) officers that the redevelopment commission will have;**

**(4) name of the redevelopment commission; and**

**(5) other matters to allow for the redevelopment commission to carry out section 12.5 of this chapter."**

Page 3, between lines 33 and 34, begin a new paragraph and insert:

**"SECTION 5. IC 36-7-14-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.5. (a) This section applies to a redevelopment commission in a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed.**

**(b) The county legislative body may provide that the same entity shall act as a redevelopment commission and as an authority under IC 36-7-14.5-12.5. When acting as a redevelopment commission the entity shall comply with this chapter, and when acting as an authority under IC 36-7-14.5**

**the entity shall comply with IC 36-7-14.5."**

Page 4, between lines 28 and 29, begin a new paragraph and insert:

**"SECTION 7. IC 36-7-14.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The board is composed of three (3) members, who must be residents of the unit appointed by the executive of the unit.**

**(b) A member is entitled to serve a three (3) year term. A member may be reappointed to subsequent terms.**

**(c) If a vacancy occurs on the board, the executive of the unit shall fill the vacancy by appointing a new member for the remainder of the vacated term.**

**(d) A board member may be removed for cause by the executive of the unit.**

**(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the board.**

**(f) A member may not receive a salary, and no profit or money of the authority inures to the benefit of a member.**

**(g) The legislative body of a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed may establish an authority with the number and qualifications of members specified in the ordinance. The ordinance may provide that the authority is an economic development corporation or a separate body corporate and politic that is an instrumentality of the county. The ordinance may establish the:**

**(1) number of members that make a quorum;**

**(2) annual or other date when the authority will organize;**

**(3) officers that the authority will have;**

**(4) name of the authority; and**

**(5) other matters to allow for the authority to carry out section 12.3 of this chapter.**

SECTION 8. IC 36-7-14.5-12.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.5. (a) This section applies to a redevelopment commission in a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed.

(b) The county legislative body may provide that the same entity shall act as a redevelopment commission under IC 36-7-14 and as an authority under this chapter. When acting as a redevelopment commission the entity shall comply with IC 36-7-14, and when acting as an authority the entity shall comply with IC 36-7-14.5."

Page 4, line 34, delete "Except as otherwise provided, the legislative body of a".

Page 4, delete lines 35 and 36.

Page 4, line 37, delete "county."

Page 5, line 2, reset in roman "However,".

Page 5, line 2, delete "An" and insert "an".

Page 5, line 2, reset in roman "not".

Page 5, line 3, reset in roman "that was declared a blighted".

Page 5, reset in roman line 4.

Page 5, line 5, reset in roman "IC 36-7-14."

Page 5, line 5, delete "within the jurisdiction of the authority." and insert "The area shall be established only in the area where

a United States government military base that is scheduled for closing or is completely or partially inactive or closed is or was located."

Page 7, delete lines 9 through 14.

Page 11, line 24, after "recognize" insert **"that the authority is also the redevelopment commission in the county."**

Page 11, delete lines 25 through 29.

Renumber all SECTIONS consecutively.

(Reference is to HB 1250 as reprinted February 16, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

MEEKS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Engrossed House Bill 1097, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 30, after "(6)" insert **"the true tax value of mobile homes assessed under IC 6-1.1-7 (other than mobile homes subject to the preferred valuation method under IC 6-1.1-4-39(b)) as the least of the values determined using the following:**

**(A) The National Automobile Dealers Association Guide.**

**(B) The purchase price of a mobile home if:**

- (i) the sale is of a commercial enterprise nature; and**
- (ii) the buyer and seller are not related by blood or marriage.**

**(C)".**

Page 2, line 30, delete "sales" and insert "Sales".

Page 2, line 30, delete "," and insert ";".

Page 2, line 30, delete "which".

Page 2, delete lines 31 through 33.

Page 2, line 34, delete "fair market" and insert **"true tax"**.

Page 2, line 34, after "value" insert **"at the time of acquisition"**.

Page 3, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 3. IC 13-21-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A controller selected under section 9 of this chapter shall do the following:

- (1) Be the official custodian of all district money **and, subject to the terms of any resolution or trust indenture under which bonds are issued under this article, deposit and invest all district money in the same manner as other county money is deposited and invested under IC 5-13.**
- (2) Be responsible to the board for the fiscal management of the district.
- (3) Be responsible for the proper safeguarding and accounting of the district's money.
- (4) Subject to subsection (c), issue warrants approved by the board after a properly itemized and verified claim has been presented to the board on a claim docket.
- (5) Make financial reports of district money and present the reports to the board for the board's approval.

(6) Prepare the district's annual budget.

(7) Perform any other duties:

- (A) prescribed by the board; and
- (B) consistent with this chapter.

(b) A controller selected under section 9 of this chapter:

- (1) does not exercise any sovereign authority of the state; and
- (2) does not hold a lucrative office for purposes of Article 2, Section 9 of the Constitution of the State of Indiana.

(c) The board may, by resolution, authorize the controller to make claim payments for:

- (1) payroll;
- (2) the state solid waste management fee imposed by IC 13-20-22-1; and
- (3) certain specific vendors identified in the resolution;

without the claims being first approved by the board if before payment the claims are approved in writing by the chairperson of the board or in the absence of the chairperson another member of the board designated by the chairperson. The claims shall be reviewed and allowed by the board at the board's next regular or special meeting.

SECTION 4. IC 13-21-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A board that has imposed fees under section 1 of this chapter shall establish and continuously maintain a separate fund under this section to be known as the "\_\_\_\_\_ district solid waste management fund".

(b) All fees remitted to the district under section 1 of this chapter shall be deposited in the fund.

(c) Money in the fund may be used only for the following purposes:

- (1) To pay expenses of administering the fund.
- (2) To pay costs associated with the development and implementation of the district plan.

(d) The controller of the district shall administer a fund established under this section. Money in the fund that is not currently needed for the purposes set forth in subsection (c) ~~may~~ **shall be deposited and** invested in the same manner as other county money ~~may be is deposited and~~ **invested under IC 5-13.** Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a district's fiscal year does not revert to:

- (1) a county general fund; or
- (2) any other fund.

(e) The controller of a district shall:

- (1) file an individual surety bond; or
- (2) revise an existing bond;

in a sufficient amount determined under IC 5-4-1-18 to reflect the liability associated with the handling of the district's money.

SECTION 5. IC 20-26-5-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22.5. (a) A school corporation may participate in the establishment of a public school foundation.

(b) The governing body of a school corporation may receive the proceeds of a grant, a restricted gift, an unrestricted gift, a donation, an endowment, a bequest, a trust, an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, or other funds not generated from

taxes levied by the school corporation to create a foundation under the following conditions:

(1) The foundation is:

(A) exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) organized as an Indiana nonprofit corporation for the purposes of providing educational funds for scholarships, teacher education, capital programs, and special programs for school corporations.

(2) Except as provided in subdivision (3), the foundation retains all rights to a donation, including investment powers. The foundation may hold a donation as a permanent endowment.

(3) The foundation agrees to do the following:

(A) Distribute the income from a donation only to the school corporation.

(B) Return a donation to the general fund of the school corporation if the foundation:

(i) loses the foundation's status as a foundation exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(ii) is liquidated; or

(iii) violates any condition set forth in this subdivision.

(c) A school corporation may use the proceeds received under this section from a foundation only for purposes of the school corporation.

(d) The governing body of the school corporation may appoint members to the foundation.

(e) The treasurer of the governing body of the school corporation may serve as the treasurer of the foundation."

Renumber all SECTIONS consecutively.

(Reference is to HB 1097 as reprinted January 25, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

KENLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Engrossed House Bill 1525, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "(a) This section applies to a".

Page 1, delete lines 4 through 8.

Page 1, line 9, delete "(b) At each property described in subsection (a), the" and insert "The".

Page 1, run in lines 3 through 9.

Page 1, line 10, after "at" insert "the state capitol building at".

Page 1, line 12, delete "7." and insert "7 for as long as the Indiana department of veterans' affairs determines that there are residents of Indiana listed as missing in action from the Vietnam conflict."

Page 1, delete lines 13 through 17.

Delete pages 2 through 4.

(Reference is to EHB 1525 as reprinted March 29, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 2.

KENLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Engrossed House Bill 1182, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 6, reset in roman "and before January".

Page 2, line 7, reset in roman "1,".

Page 2, line 7, after "2006," insert "2012,".

Page 3, line 19, reset in roman "and before January 1,".

Page 3, line 20, after "2006," insert "2012,".

Page 3, line 42, reset in roman "and before January 1,".

Page 4, line 1, after "2006," insert "2012,".

Page 4, line 23, reset in roman "and before January 1,".

Page 4, line 24, after "2006," insert "2012,".

Page 7, line 41, reset in roman "before January 1,".

Page 7, line 42, after "2006," insert "2012,".

Page 7, line 42, reset in roman "but".

Page 10, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 4. IC 6-1.1-12.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. Notwithstanding any other provision of this chapter, a designating body may not approve a statement of benefits for a deduction under section 3 or 4.5 of this chapter after December 31, ~~2005~~: 2011."

Page 10, line 28, reset in roman "before January 1,".

Page 10, line 28, after "2006," insert "2012,".

Page 10, delete lines 36 through 42.

Delete pages 11 through 14.

Page 15, delete lines 1 through 37.

Page 17, line 24, reset in roman "before January 1,".

Page 17, line 24, after "2006," insert "2012,".

Page 17, line 28, reset in roman "before January 1,".

Page 17, line 28, after "2006," insert "2012,".

Page 23, line 36, reset in roman "before".

Page 23, line 37, reset in roman "January 1,".

Page 23, line 37, after "2006," insert "2012,".

Page 23, line 40, reset in roman "before".

Page 23, line 41, reset in roman "January 1,".

Page 23, line 41, after "2006," insert "2012,".

Page 28, line 12, reset in roman "before".

Page 28, line 13, reset in roman "January 1,".

Page 28, line 13, after "2006," insert "2012,".

Page 28, line 16, reset in roman "before".

Page 28, line 17, reset in roman "January 1,".

Page 28, line 17, after "2006," insert "2012,".

Page 33, line 39, delete "THE FOLLOWING ARE REPEALED [EFFECTIVE" and insert "IC 6-1.1-12.1-2.3 IS REPEALED [EFFECTIVE JULY 1, 2005]."

Page 33, delete line 40.

Page 34, delete lines 4 through 10.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1182 as printed March 30, 2005.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 11, Nays 0.

KENLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Engrossed House Bill 1083, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under this chapter, IC 4-4-21, and IC 15-7-5, including but not limited to the following:

- (1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.
- (2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with this chapter, IC 4-4-21, and IC 15-7-5 and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business.
- (3) Sue and be sued in its own name.
- (4) Have an official seal and alter it at will.
- (5) Maintain an office or offices at a place or places within the state as it may designate.
- (6) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, IC 4-4-21, and IC 15-7-5.
- (7) Employ architects, engineers, attorneys, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.
- (8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.
- (9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by this chapter, IC 4-4-21, and IC 15-7-5.
- (10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority or for reinsurance on amounts paid from the industrial development project guaranty fund, including the power to pay premiums on any insurance or

reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter, IC 4-4-21, and IC 15-7-5, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with this chapter, IC 4-4-21, or IC 15-7-5.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 15-7-4.9-2), rural development project (as defined in IC 15-7-4.9-19.5), industrial development project, or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to this chapter, IC 4-4-21, and IC 15-7-5.

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.

(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being financed.

(17) Invest any funds not needed for immediate disbursement, including any funds held in reserve, in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state, or any obligations or securities which may from time to time be



legally purchased by governmental subdivisions of this state pursuant to IC 5-13, or any obligations or securities which are permitted investments for bond proceeds or any construction, debt service, or reserve funds secured under the trust indenture or resolution pursuant to which bonds are issued.

(18) Collect fees and charges, as the authority determines to be reasonable, in connection with its loans, guarantees, advances, insurance, commitments, and servicing.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of this chapter, IC 4-4-21, or IC 15-7-5.

(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease, or rent such industrial development project for any use.

(23) Expend money, as the authority considers appropriate, from the industrial development project guaranty fund created by section 16 of this chapter.

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for:

(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; or

(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2);

with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.

(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development

projects to be leased from or to be acquired by the authority.

(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.

(31) Adopt rules governing its activities authorized under this chapter, IC 4-4-21, and IC 15-7-5.

(32) Use the proceeds of bonds to make guaranteed participating loans.

(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.

(34) Sell and guarantee securities.

(35) Make guaranteed participating loans under IC 4-4-21-26.

(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.

(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of this chapter or IC 4-4-21.

(38) Provide financial counseling services to Indiana exporters.

(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.

(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.

(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.

(42) Make guarantees and administer the agricultural loan and rural development project guarantee fund established by IC 15-7-5.

(43) Take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the authority the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

(44) Expend money, as the authority considers appropriate, from the agricultural loan and rural development project guarantee fund created by IC 15-7-5-19.5.

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) Do any act necessary or convenient to the exercise of the powers granted by this chapter, IC 4-4-21, or IC 15-7-5, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

**(47) Issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire obligations issued by any entity authorized to acquire, finance, construct, or lease capital improvements**

**under IC 5-1-17.**

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

SECTION 2. IC 5-1-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

**Chapter 17. Indiana Stadium and Convention Building Authority**

**Sec. 1.** As used in this chapter, "authority" refers to the Indiana stadium and convention building authority created by this chapter.

**Sec. 2.** As used in this chapter, "board" refers to the board of directors of the authority.

**Sec. 3.** As used in this chapter, "bonds" means bonds, notes, commercial paper, or other evidences of indebtedness. The term includes obligations (as defined in IC 8-9.5-9-3) and swap agreements (as defined in IC 8-9.5-9-4).

**Sec. 4.** As used in this chapter, "capital improvement board" refers to a capital improvement board of managers created by IC 36-10-8 or IC 36-10-9.

**Sec. 5.** As used in this chapter, "state agency" has the meaning set forth in IC 4-13.5-1-1.

**Sec. 6.** An Indiana stadium and convention building authority is created in the state as a separate body corporate and politic as an instrumentality of the state to acquire, construct, equip, own, lease, and finance facilities for lease to or for the benefit of a capital improvement board.

**Sec. 7.** (a) The board is composed of the following seven (7) members, who must be residents of the state:

- (1) Two (2) members appointed by the governor.
- (2) One (1) member appointed by the president pro tempore of the senate.
- (3) One (1) member appointed by the speaker of the house of representatives.
- (4) Two (2) members appointed by the executive of a county having a consolidated first class city.
- (5) One (1) member appointed by the county fiscal body of a county that is contiguous to a county having a consolidated city, determined as follows:

(A) The member appointed for the initial term shall be appointed by the contiguous county that has the largest population of all the contiguous counties that have adopted an ordinance to impose a food and beverage tax under IC 6-9-35.

(B) The member appointed for each successive term shall be appointed by the contiguous county that:

- (i) contributed the most revenues from the tax imposed by IC 6-9-35 to the capital improvement board of managers created by IC 36-10-9-3 in the immediately previous calendar year; and
- (ii) has not previously made an appointment to the board or, if all the contributing counties have previously made such an appointment, is the one (1)

whose then most recent appointment occurred before those of all the other contributing counties.

(b) A member appointed under subsection (a)(1) through (a)(4) is entitled to serve a three (3) year term. A member appointed under subsection (a)(5) is entitled to serve a one (1) year term. A member may be reappointed to subsequent terms.

(c) If a vacancy occurs on the board, the person or body who made the appointment of the vacated member shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) A board member may be removed for cause by the appointing authority that appointed the member.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the board.

**Sec. 8.** (a) The board shall hold an initial organizational meeting on or before June 30, 2005. Immediately after January 15 of each year, the board shall hold its annual organizational meeting.

(b) The governor shall appoint a member of the board to serve as chair of the board.

(c) The board shall elect one (1) of the members vice chair and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. The board may elect an assistant secretary-treasurer.

(d) Special meetings may be called by the chair of the board or any three (3) members of the board.

(e) A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

**Sec. 9.** The board may adopt the bylaws and rules it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

**Sec. 10.** The authority is organized for the following purposes:

- (1) Acquiring, financing, constructing, and leasing land and capital improvements to or for the benefit of a capital improvement board.
- (2) Financing and constructing additional improvements to capital improvements owned by the authority and leasing them to or for the benefit of a capital improvement board.
- (3) Acquiring land or all or a portion of one (1) or more capital improvements from a capital improvement board by purchase or lease and leasing the land or these capital improvements back to the capital improvement board, with any additional improvements that may be made to them.
- (4) Acquiring all or a portion of one (1) or more capital improvements from a capital improvement board by purchase or lease to fund or refund indebtedness incurred on account of those capital improvements to enable the capital improvement board to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the capital improvement board considers to be unduly burdensome.

**Sec. 11. The authority may also:**

- (1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and capital improvements;
- (2) lease the land or those capital improvements to a capital improvement board;
- (3) sue, be sued, plead, and be impleaded;
- (4) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with capital improvements;
- (5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;
- (6) after giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a capital improvement;
- (7) design, order, contract for, and construct, reconstruct, and renovate any capital improvements or improvements thereto;
- (8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees;
- (9) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter; and
- (10) take any other action necessary to implement its purposes as set forth in section 10 of this chapter.

**Sec. 12. (a)** Bonds issued under IC 36-10-8 or IC 36-10-9 or prior law may be refunded as provided in this section.

**(b) A capital improvement board may:**

- (1) lease all or a portion of land or a capital improvement or improvements to the authority, which may be at a nominal lease rental with a lease back to the capital improvement board, conditioned upon the authority assuming bonds issued under IC 36-10-8 or IC 36-10-9 or prior law and issuing its bonds to refund those bonds; and
- (2) sell all or a portion of land or a capital improvement or improvements to the authority for a price sufficient to provide for the refunding of those bonds and lease back the land or capital improvement or improvements from the authority.

**Sec. 13. (a)** Before a lease may be entered into by a capital improvement board under this chapter, the capital improvement board must find that the lease rental provided for is fair and reasonable.

**(b) A lease of land or capital improvements from the authority to a capital improvement board:**

- (1) may not have a term exceeding forty (40) years;
- (2) may not require payment of lease rentals for a newly constructed capital improvement or for improvements to an existing capital improvement until the capital improvement or improvements thereto have been completed and are ready for occupancy;
- (3) may contain provisions:
  - (A) allowing the capital improvement board to continue to operate an existing capital improvement until completion of the improvements, reconstruction, or renovation of that capital improvement or any other

capital improvement; and

(B) requiring payment of lease rentals for land, for an existing capital improvement being used, reconstructed, or renovated, or for any other existing capital improvement;

- (4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;
- (5) must contain an option for the capital improvement board to purchase the capital improvement upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness;
- (6) may be entered into before acquisition or construction of a capital improvement;
- (7) must be approved by the executive of the county in which the capital improvement board is located;
- (8) may provide that the capital improvement board shall agree to:

(A) pay all taxes and assessments thereon;

(B) maintain insurance thereon for the benefit of the authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the authority from any funds legally available to the capital improvement board before the commencement of the lease to secure the performance of the capital improvement board's obligations under the lease;

(9) subject to IC 36-10-8-13 and IC36-10-9-11, may provide that the lease rental payments by the capital improvement board shall be made from:

(A) proceeds of one (1) or more of the excise taxes as defined in IC 36-10-8 or IC 36-10-9;

(B) proceeds of the county supplemental auto rental excise tax imposed pursuant to IC 6-6-9.7;

(C) that part of the proceeds of the county food and beverage tax imposed under IC 6-9-35, which the capital improvement board or its designee receives pursuant thereto;

(D) revenue captured under IC 36-7-31;

(E) net revenues of the capital improvement;

(F) any other funds available to the capital improvement board; or

(G) any combination of the sources described in clauses (A) through (F); and

(10) subject to IC 36-10-9-11, shall, with respect to a lease of a capital improvement, consisting, in whole or in part, of a stadium, to a capital improvement board created by IC 36-10-9, provide that the lease rental payments by the capital improvement board made in each calendar year shall include the aggregate of the revenues generated during the calendar year as a result of the use of the stadium by any person or entity during any event, other than an event involving the use of such stadium by a professional football team; provided that, the amount of the revenues to be used for rental payments in any

calendar year shall not exceed the lesser of:

(A) \$3,500,000; or

(B) the lease rental payments due in the calendar year.

(c) A capital improvement board may designate the authority as its agent to receive on behalf of the capital improvement board any of the revenues identified in subsection (b)(9) and (b)(10).

(d) The authority may not enter into a lease with a capital improvement board until the capital improvement board has presented evidence in form satisfactory to the state budget director of all agreements between the capital improvement board and any prospective users of the capital improvement with respect to its use and occupancy, the payment of licenses, fees, expenses and any other payments to be made by the user in connection with the use of the capital improvement, or any other matter related thereto.

Sec. 14. This chapter contains full and complete authority for leases between the authority and a capital improvement board. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this chapter.

Sec. 15. If the lease provides for a capital improvement or improvements thereto to be constructed by the authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

Sec. 16. The authority and a capital improvement board may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the capital improvement is located.

Sec. 17. (a) A capital improvement board may lease for a nominal lease rental, or sell to the authority, one (1) or more capital improvements or portions thereof or land upon which a capital improvement is located or is to be constructed.

(b) Any lease of all or a portion of a capital improvement by a capital improvement board to the authority must be for a term equal to the term of the lease of that capital improvement back to the capital improvement board.

(c) A capital improvement board may sell property to the authority for the amount it determines to be in the best interest of the capital improvement board. The authority may pay that amount from the proceeds of bonds of the authority.

Sec. 18. (a) Subject to subsection (h), the authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) constructing, improving, reconstructing, or renovating one (1) or more capital improvements; or

(3) funding or refunding bonds issued under IC 36-10-8 or IC 36-10-9 or prior law.

(b) The bonds are payable solely from the lease rentals from the lease of the capital improvements for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds at public or private sale upon the terms determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of the acquisition or construction, or both, of capital improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;

(4) architectural, engineering, consultant, and attorney fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) The authority may not issue bonds under this chapter unless the authority first finds that the following conditions are met:

(1) Each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.

(2) An agreement has been entered into with any professional football team that will use any facility financed through the issuance of the bonds that provides all the following:

(A) No transferable license will be sold to a third party that entitles the third party to purchase a season ticket to professional football games at the facility for a period greater than one (1) year.

(B) At least three thousand (3,000) tickets for professional football games held at the facility must be sold at a price of:

(i) twenty-five dollars (\$25) or less per seat, including that part of the admissions tax described in IC 6-9-13-2(b)(1), during the first ten (10) years of operation of the facility;

- (ii) twenty-eight dollars (\$28) or less per seat, including that part of the admissions tax described in IC 6-9-13-2(b)(1), during the next ten (10) years of operation of the facility; and
- (iii) thirty-one dollars (\$31) or less per seat, including that part of the admissions tax described in IC 6-9-13-2(b)(1), during the next ten (10) years of operation of the facility.

These tickets must be clearly designated as tickets that may not be resold for a price higher than the face value of the ticket. However, the tickets may be resold for the same price with the consent of the professional football team that uses the facility.

A person who sells a license described in subdivision (2)(A) or resells a ticket described in subdivision (2)(B) commits a Class A misdemeanor.

Sec. 19. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

Sec. 20. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

Sec. 21. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign lease rentals, receipts, and income from leased capital improvements, but may not mortgage land or capital improvements;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board;
- (3) set forth the rights and remedies of bondholders and trustee; and
- (4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the board.

Sec. 22. If a capital improvement board exercises its option to purchase leased property, it may issue its bonds as authorized by statute.

Sec. 23. All:

- (1) property owned by the authority;
- (2) revenues of the authority; and
- (3) bonds issued by the authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

Sec. 24. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

- (1) the receipt of bids for the bonds, if the bonds are sold at public sale; or
- (2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.

Sec. 25. The authority shall not issue bonds in a principal amount exceeding five hundred million dollars (\$500,000,000) to finance any capital improvement in a county having a consolidated first class city unless:

- (1) on or before June 30, 2005, the county fiscal body:
  - (A) increases the rate of the tax authorized by IC 6-6-9.7 by the maximum amount authorized by IC 6-6-9.7-7(c);
  - (B) increases the rate of the tax authorized by IC 6-9-8 by the maximum amount authorized by IC 6-9-8-3(d);
  - (C) increases the rate of tax authorized by IC 6-9-12 by the maximum amount authorized by IC 6-9-12-5(b); and
  - (D) increases the rate of the tax authorized by IC 6-9-13 by the maximum amount authorized by IC 6-9-13-2(b); and
- (2) on or before July 31, 2005, the budget director makes a determination under IC 36-7-31-14.1 to increase the amount of money captured in a tax area established under IC 36-7-31 by up to eleven million dollars (\$11,000,000) per year, commencing July 1, 2007.

Sec. 26. (a) Notwithstanding any other law, any capital improvement that may be leased by the authority to a capital improvement board under this chapter may also be leased by the authority to any state agency. Any lease between the authority and a state agency under this chapter:

- (1) must set forth the terms and conditions of the use and occupancy under the lease;
- (2) must set forth the amounts agreed to be paid at stated intervals for the use and occupancy under the lease;
- (3) must provide that the state agency is not obligated to continue to pay for the use and occupancy under the lease but is instead required to vacate the facility if it is shown that the terms and conditions of the use and occupancy and the amount to be paid for the use and occupancy are unjust and unreasonable considering the value of the services and facilities thereby afforded;

- (4) must provide that the state agency is required to vacate the facility if funds have not been appropriated or are not available to pay any sum agreed to be paid for use and occupancy when due;
- (5) may provide for such costs as maintenance, operations, taxes, and insurance to be paid by the state agency;
- (6) may contain an option to renew the lease;
- (7) may contain an option to purchase the facility for an amount equal to the amount required to pay the principal and interest of indebtedness of the authority incurred on account of the facility and expenses of the authority attributable to the facility;
- (8) may provide for payment of sums for use and occupancy of an existing capital improvement being used by the state agency, but may not provide for payment of sums for use and occupancy of a new capital improvement until the construction of the capital improvement or portion thereof has been completed and the new capital improvement or a portion thereof is available for use and occupancy by the state agency; and
- (9) may contain any other provisions agreeable to the authority and the state agency.

(b) Any state agency that leases a capital improvement from the authority under this chapter may sublease the capital improvement to a capital improvement board under the terms and conditions set forth in section 13 of this chapter.

(c) Notwithstanding any other law, in anticipation of the construction of any capital improvement and the lease of that capital improvement by the authority to a state agency, the authority may acquire an existing facility owned by the state agency and then lease the facility to the state agency. A lease made under this subsection shall describe the capital improvement to be constructed and may provide for the payment of rent by the state agency for the use of the existing facility. If such rent is to be paid pursuant to the lease, the lease shall provide that upon completion of the construction of the capital improvement, the capital improvement shall be substituted for the existing facility under the lease. The rent required to be paid by the state agency pursuant to the lease shall not constitute a debt of the state for purposes of the Constitution of the State of Indiana. A lease entered into under this subsection is subject to the same requirements for a lease entered into under subsection (a) with respect to both the existing facility and the capital improvement anticipated to be constructed.

(d) This chapter contains full and complete authority for leases between the authority and a state agency and subleases between a state agency and a capital improvement board. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board, the governing body of any state agency or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any such lease or sublease, except as prescribed in this chapter.

Sec. 27. In order to enable the authority to lease a capital improvement or existing facility to a state agency under section 26 of this chapter, the governor may convey, transfer, or sell, with or without consideration, real property (including the

buildings, structures, and improvements), title to which is held in the name of the state, to the authority, without being required to advertise or solicit bids or proposals, in order to accomplish the governmental purposes of this chapter.

Sec. 28. If the authority enters into a lease with a capital improvement board under section 13 of this chapter or a state agency under section 26 of this chapter, which then enters into a sublease with a capital improvement board under section 26(b) of this chapter, and the rental payments owed by the capital improvement board to the authority under the lease or to the state agency under the sublease are payable from the taxes described in section 25 of this chapter or from the taxes authorized under IC 6-9-35, the state budget director may choose the designee of the capital improvement board, which shall receive and deposit the revenues derived from such taxes. The designee shall hold the revenues on behalf of the capital improvement board pursuant to an agreement between the authority and the capital improvement board or between a state agency and the capital improvement board. The agreement shall provide for the application of the revenues in a manner that does not adversely affect the validity of the lease or the sublease, as applicable. The designee must be a trust company or national or state bank within Indiana that has trust powers.

SECTION 3. IC 6-6-9.7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 7. (a) The city-county council of a county that contains a consolidated city may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles and trucks in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2027.

(b) Except as provided in subsection (c), the county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle or truck equals two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax imposed under subsection (a) from two percent (2%) to four percent (4%). The ordinance must specify that the original two percent (2%) rate imposed under subsection (a) continues to be levied after its original expiration date set forth in subsection (a), and that both the original rate and the additional rate in the aggregate of four percent (4%) expire on December 31, 2040.

(d) The amount collected from that portion of county supplemental auto rental excise tax imposed under subsection (c) shall, in the manner provided by section 11 of this chapter, be distributed to the capital improvement board of managers operating in a consolidated city or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26(b), the capital improvement board of managers or its designee shall deposit the revenues received

from that portion of the county supplemental auto rental excise tax imposed under subsection (c) in a special fund, which may be used only for the payment of the obligations described in this subsection.

~~(e)~~ (e) If a city-county council adopts an ordinance under subsection (a) ~~or (c)~~, the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

~~(f)~~ (f) If a city-county council adopts an ordinance under subsection (a) ~~or (c)~~ prior to June 1, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) ~~or (c)~~ on or after June 1, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

SECTION 4. IC 6-6-9.7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 12. This chapter expires ~~January 1, 2028~~; **December 31, 2040**.

SECTION 5. IC 6-9-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. (a) ~~Except as provided in subsection (b)~~; The tax imposed by section 2 of this chapter shall be at the rate of:

- (1) before January 1, 2028, five percent (5%) on the gross income derived from lodging income only, **plus an additional one percent (1%)** if the fiscal body ~~does not adopt~~ **adopts** an ordinance under subsection (b), ~~and six percent (6%) plus an additional three percent (3%)~~ if the fiscal body adopts an ordinance under subsection ~~(b)~~; **(d); and**
- (2) after December 31, 2027, **and before January 1, 2041, five percent (5%) plus an additional three percent (3%) if the fiscal body adopts an ordinance under subsection (d); and**
- (3) **after December 31, 2040, five percent (5%).**

(b) In any year subsequent to the initial year in which a tax is imposed under section 2 of this chapter, the fiscal body may, by ordinance adopted by at least two-thirds (2/3) of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter from five percent (5%) to six percent (6%). The ordinance must specify that the increase in the tax authorized under this subsection expires January 1, 2028.

(c) The amount collected from an increase adopted under subsection (b) shall be transferred to the capital improvement board of managers established by IC 36-10-9-3. The board shall deposit the revenues received under this subsection in a special fund. Money in the special fund may be used only for the payment of obligations incurred to expand a convention center, including:

- (1) principal and interest on bonds issued to finance or refinance the expansion of a convention center; and
- (2) lease agreements entered into to expand a convention center.

(d) **On or before June 30, 2005, the fiscal body may, by ordinance adopted by a majority of the members elected to the fiscal body, increase the tax imposed by section 2 of this chapter by an additional three percent (3%) to a total rate of eight percent (8%) (or nine percent (9%)) if the fiscal body has adopted an ordinance under subsection (b) and that rate remains in effect). The ordinance must specify that the increase in the tax authorized under this subsection expires December**

**31, 2040. If the fiscal body adopts an ordinance under this subsection, it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue, and the increase in the tax imposed under this chapter applies to transactions that occur after June 30, 2005.**

(e) **The amount collected from an increase adopted under subsection (d) shall be transferred to the capital improvement board of managers established by IC 36-10-9-3 or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency pursuant to IC 5-1-17-26(b), the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.**

SECTION 6. IC 6-9-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 5. (a) **Subject to subsection (b)**, the county food and beverage tax imposed on a food or beverage transaction described in section 3 of this chapter equals one percent (1%) of the gross retail income received by the retail merchant from the transaction. **The tax authorized under this subsection expires January 1, 2041.**

(b) **On or before June 30, 2005, the city-county council of a county may, by a majority vote of the members elected to the city-county council, adopt an ordinance that increases the tax imposed under this chapter by an additional rate of one percent (1%) to a total rate of two percent (2%). The ordinance must specify that the increase in the tax authorized under this subsection expires January 1, 2041. If a city-county council adopts an ordinance under this subsection, it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue, and the increase in the tax imposed under this chapter applies to transactions that occur after June 30, 2005.**

(c) For purposes of this chapter, the gross retail income received by the retail merchant from ~~such a transaction that is subject to the tax imposed by this chapter~~ does not include the amount of tax imposed on the transaction under IC 6-2-5.

SECTION 7. IC 6-9-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 8. The amounts received from the county food and beverage tax shall be paid monthly by the treasurer of the state to the treasurer of the capital improvement board of managers of the county ~~or its designee~~ upon warrants issued by the auditor of state. **So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency pursuant to IC 5-1-17-26(b), the capital improvement board of managers or its designee shall deposit the revenues received from that portion of the county food and beverage tax imposed under section 5(b) of this chapter in a special fund, which may**

be used only for the payment of the obligations described in this section.

SECTION 8. IC 6-9-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 1. (a) Except as provided in subsection (b), the city-county council of a county that contains a consolidated first class city may adopt an ordinance to impose an excise tax, known as the county admissions tax, for the privilege of attending, before January 1, ~~2028~~, **2041**, any event and, after December 31, ~~2027~~, **2040**, any professional sporting event:

- (1) held in a facility financed in whole or in part by bonds or notes issued under IC 18-4-17 (before its repeal on September 1, 1981), IC 36-10-9, or IC 36-10-9.1; and
- (2) to which tickets are offered for sale to the public by:
  - (A) the box office of the facility; or
  - (B) an authorized agent of the facility.

(b) The excise tax imposed under subsection (a) does not apply to the following:

- (1) An event sponsored by an educational institution or an association representing an educational institution.
- (2) An event sponsored by a religious organization.
- (3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.
- (4) An event sponsored by a political organization.

(c) If a city-county council adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(d) If a city-county council adopts an ordinance under subsection (a) **or section 2 of this chapter** prior to June 1, the county admissions tax applies to admission charges collected after June 30 of the year in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a) **or section 2 of this chapter** on or after June 1, the county admissions tax applies to admission charges collected after the last day of the month in which the ordinance is adopted.

SECTION 9. IC 6-9-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. **(a) Except as provided in subsection (b),** the county admissions tax equals five percent (5%) of the price for admission to any event described in section 1 of this chapter.

**(b) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the county admissions tax from five percent (5%) to six percent (6%) of the price for admission to any event described in section 1 of this chapter, plus:**

- (1) three dollars (\$3) for each admission to a professional sporting event described in section 1 of this chapter; and**
- (2) one dollar (\$1) for each admission to any other event described in section 1 of this chapter.**

**(c) The amount collected from that portion of the county admissions tax imposed under subsection (b) shall be distributed to the capital improvement board of managers or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building**

**authority or any state agency pursuant to IC 5-1-17-26(b), the capital improvement board of managers or its designee shall deposit the revenues received from that portion of the county admissions tax imposed under subsection (b) in a special fund, which may be used only for the payment of the obligations described in this subsection.**

SECTION 10. IC 6-9-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 3. **(a) Subject to subsection (c),** each person who pays a price for admission to any event described in section 1(a) of this chapter is liable for the tax imposed under this chapter.

**(b) Subject to subsection (c),** the person who collects the price for admission shall also collect the county admissions tax imposed with respect to the price for admission. The person shall collect the tax at the same time the price for admission is paid, regardless of whether the price paid is for a single admission, for season tickets, or for any other admission arrangement. In addition, the person shall collect the tax as an agent of the state and the county in which the facility described in section 1 of this chapter is located.

**(c) A person who is liable for the tax imposed under section 1 of this chapter is entitled to a credit against that part of the tax liability due under section 2(b)(1) of this chapter if:**

- (1) the tax liability is with respect to attendance at a professional sporting event described in section 1 of this chapter;**
- (2) the event is conducted at a facility that was financed, constructed, or acquired in the manner provided by IC 5-1-17; and**
- (3) the professional sports team conducting the event has contributed or agreed to make payments to the capital improvement board of managers or its designee that are sufficient, as determined by the Indiana stadium and convention building authority, to replace all or part of the tax liability due under section 2(b)(1) of this chapter that would otherwise be required to enable the capital improvement board of managers to meet any current or future obligations owed to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency pursuant to IC 5-1-17-26(b).**

**(d) The budget agency shall:**

- (1) in consultation with the Indiana stadium and convention building authority and the department of state revenue, establish a method for computing the amount of the credit described in subsection (c); and**
- (2) submit the method established under subdivision (1) to the budget committee for its review and recommendation.**

SECTION 11. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]:

**Chapter 35. Stadium and Convention Building Food and Beverage Tax Funding**

**Sec. 1. This chapter applies to Boone, Johnson, Hamilton, Hancock, Hendricks, Morgan, and Shelby counties (referred to as counties in this chapter) and to the city or town of Avon,**



Carmel, Fishers, Franklin, Greenfield, Greenwood, Lebanon, Martinsville, Noblesville, and Westfield that are located in those counties (referred to as political subdivisions in this chapter).

Sec. 2. The definitions in IC 6-9-12-1 and IC 36-1-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "authority" refers to the Indiana stadium and convention building authority created by IC 5-1-17.

Sec. 4. As used in this chapter, "capital improvement board" means the capital improvement board of managers created by IC 36-10-9-3.

Sec. 5. (a) Except as provided in subsection (d), the fiscal body of a county may adopt an ordinance not later than July 31, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the county.

(b) Except as provided in subsection (d), if the county in which the political subdivision is located has adopted an ordinance imposing an excise tax under subsection (a), the fiscal body of a political subdivision may adopt an ordinance not later than September 30, 2005, to impose an excise tax, known as the food and beverage tax, on those transactions described in sections 8 and 9 of this chapter that occur anywhere within the political subdivision.

(c) The rate of the tax imposed under this chapter equals one percent (1%) of the gross retail income on the transaction. With respect to an excise tax in the political subdivisions set forth in IC 6-9-27-1(1) (Mooresville), IC 6-9-27-1(3) (Plainfield) and IC 6-9-27-1(4) (Brownsburg), the excise tax imposed by the county is in addition to the food and beverage tax imposed by those political subdivisions. With respect to an excise tax imposed by a county under subsection (a), the excise tax imposed by a political subdivision under subsection (b) is in addition to the food and beverage tax imposed by the county in which the political subdivision is located. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5, IC 6-9-27, or this chapter.

(d) If the Marion County city-county council does not adopt all the ordinances required to be adopted by it under IC 5-1-17-25 on or before June 30, 2005, the counties and political subdivisions described in section 1 of this chapter are no longer subject to the provisions of this chapter. In that event, the fiscal body of the county or political subdivision may not adopt an ordinance to impose the excise tax authorized by this chapter, and any ordinance adopted by the fiscal body under subsection (a) or (b) is no longer effective.

Sec. 6. If a fiscal body adopts an ordinance under section 5 of this chapter, the clerk shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 7. If a fiscal body adopts an ordinance under section 5 of this chapter, the food and beverage tax applies to transactions that occur after July 31, 2005.

Sec. 8. Except as provided in section 10 of this chapter, a tax imposed under section 5 of this chapter applies to any transaction in which food or beverage is furnished, prepared,

or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county or political subdivision, or both, in which the tax is imposed; and
- (3) by a retail merchant for consideration.

Sec. 9. Transactions described in section 8(1) of this chapter include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) food sold in a heated state or heated by a retail merchant;
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

Sec. 10. The food and beverage tax under this chapter does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 11. The tax that may be imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the taxes may be made on separate returns or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 12. (a) As long as there are any current or future obligations owed by the capital improvement board to the authority or any state agency under a lease or other agreement entered into between the capital improvement board and the authority or any state agency pursuant to IC 5-1-17-26(b), fifty percent (50%) of the amounts received from the taxes imposed under this chapter by counties shall be paid monthly by the treasurer of state to the treasurer of the capital improvement board or its designee upon warrants issued by the auditor of state and the remainder shall be paid monthly by the treasurer of state to the county fiscal officer upon warrants issued by the auditor of state. In any state fiscal year, if the aggregate amount of the taxes imposed under this chapter by all the counties and paid to the treasurer of the capital improvement board or its designee under this subsection equals five million dollars (\$5,000,000), the entire remainder of the taxes imposed by a county under this chapter during that state fiscal year shall be paid by the treasurer of state to the fiscal officer of the county, upon warrants issued by the auditor of state.

(b) If there are then existing no obligations of the capital improvement board described in subsection (a), the entire amount received from the taxes imposed by a county under this

chapter shall be paid monthly by the treasurer of state to the county fiscal officer upon warrants issued by the auditor of state.

(c) The entire amount of the taxes paid to the treasurer of the capital improvement board or its designee under subsection (a) shall be deposited in a special fund and used only for the payment of obligations of the capital improvement board described in subsection (a).

(d) The entire amount received from the taxes imposed by a political subdivision under this chapter shall be paid monthly by the treasurer of state to the political subdivision's fiscal officer upon warrants issued by the auditor of state.

Sec. 13. (a) If a tax is imposed under section 5 of this chapter, the county or political subdivision fiscal officer, or both, shall establish a food and beverage tax fund.

(b) The fiscal officer shall deposit in the fund all amounts received by the fiscal officer under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

Sec. 14. Money in the food and beverage tax fund shall be used by the county or political subdivision:

(1) to reduce the county's or political subdivision's property tax levy for a particular year at the discretion of the county or political subdivision, but this use does not reduce the maximum permissible levy under IC 6-1.1-18.5 for the county or political subdivision; or

(2) for the financing, construction, operation, or maintenance of the following:

- (A) Sanitary sewers or wastewater treatment facilities.
- (B) Park or recreational facilities.
- (C) Drainage or flood control facilities.
- (D) Drinking water treatment, storage, or distribution facilities.
- (E) Roads and streets.

A county or political subdivision may pledge the money to bonds, leases, or other obligations under IC 5-1-14-4.

Sec. 15. (a) If there are no obligations of the capital improvement board described in section 12(a) of this chapter then outstanding and there are no bonds, leases, or other obligations then outstanding for which a pledge has been made under section 14 of this chapter, the fiscal body may adopt an ordinance, after December 31, 2009, and before December 1, 2010, or any year thereafter, that repeals the ordinance adopted under section 5 of this chapter.

(b) An ordinance adopted under subsection (a) takes effect January 1 immediately following the date of its adoption. If the fiscal body adopts such an ordinance, the clerk shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

Sec. 16. With respect to obligations of the capital improvement board described in section 12(a) of this chapter and bonds, leases, or other obligations for which a pledge has been made under section 14 of this chapter, the general assembly covenants with the holders of these obligations that:

- (1) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed under this chapter; and
- (2) this chapter will not be amended in any manner that

will change the purpose for which revenues from the tax imposed under this chapter may be used; as long as the payment of any of those obligations is outstanding.

SECTION 12. IC 8-9.5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 2. As used in this chapter, "authority" means:

- (1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;
- (2) the commission established under IC 4-13.5;
- (3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5; or
- (4) a fund or program established under IC 13-18-13 or IC 13-18-21;
- (5) the authority established under IC 4-4-11; or**
- (6) the authority established under IC 5-1-17.**

SECTION 13. IC 9-13-2-170 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 170. "Special group" means:

- (1) a class or group of persons that the bureau finds:**
- ~~(1) that:~~
  - (A) have made significant contributions to the United States, Indiana, or the group's community or
  - ~~(B) are descendants of native or pioneer residents of Indiana;~~
  - ~~(2) (B) are organized as a nonprofit organization (as defined under Section 501(c) of the Internal Revenue Code);~~
  - ~~(3) (C) are organized for nonrecreational purposes; and~~
  - ~~(4) (D) are organized as a separate, unique organization or as a coalition of separate, unique organizations; or~~
- (2) a professional sports franchise.**

SECTION 14. IC 9-18-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who is the registered owner or lessee of a:

- (1) passenger motor vehicle;
- (2) motorcycle;
- (3) recreational vehicle; or
- (4) vehicle registered as a truck with a declared gross weight of not more than:
  - (A) eleven thousand (11,000) pounds;
  - (B) nine thousand (9,000) pounds; or
  - (C) seven thousand (7,000) pounds;

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

- (b) A person who:
  - (1) is the registered owner or lessee of a vehicle described in subsection (a); and
  - (2) is eligible to receive a license plate for the vehicle under:
    - (A) IC 9-18-17 (prisoner of war license plates);
    - (B) IC 9-18-18 (disabled veteran license plates);
    - (C) IC 9-18-19 (purple heart license plates);
    - (D) IC 9-18-20 (Indiana National Guard license plates);
    - (E) IC 9-18-21 (Indiana Guard Reserve license plates);

- (F) IC 9-18-22 (license plates for persons with disabilities);
- (G) IC 9-18-23 (amateur radio operator license plates);
- (H) IC 9-18-24 (civic event license plates);
- (I) IC 9-18-25 (special group recognition license plates);
- (J) IC 9-18-29 (environmental license plates);
- (K) IC 9-18-30 (kids first trust license plates);
- (L) IC 9-18-31 (education license plates);
- (M) IC 9-18-32.2 (drug free Indiana trust license plates);
- (N) IC 9-18-33 (Indiana FFA trust license plates);
- (O) IC 9-18-34 (Indiana firefighter license plates);
- (P) IC 9-18-35 (Indiana food bank trust license plates);
- (Q) IC 9-18-36 (Indiana girl scouts trust license plates);
- (R) IC 9-18-37 (Indiana boy scouts trust license plates);
- (S) IC 9-18-38 (Indiana retired armed forces member license plates);
- (T) IC 9-18-39 (Indiana antique car museum trust license plates);
- (U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
- (V) IC 9-18-41 (Indiana arts trust license plates);
- (W) IC 9-18-42 (Indiana health trust license plates);
- (X) IC 9-18-43 (Indiana mental health trust license plates);
- (Y) IC 9-18-44 (Indiana Native American Trust license plates);
- (Z) IC 9-18-45.8 (Pearl Harbor survivor license plates);
- (AA) IC 9-18-46.2 (Indiana state educational institution trust license plates);
- (BB) IC 9-18-47 (Lewis and Clark bicentennial license plates); or
- (CC) IC 9-18-48 (Riley Children's Foundation license plates); or
- (DD) IC 9-18-49 (Professional sports teams license plates);**

may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 15. IC 9-18-49 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 49. Professional Sports Teams License Plates**

**Sec. 1. The bureau shall design and issue a professional sports teams license plate for a professional sports team from which the bureau secures an agreement for the production and sale of license plates. A professional sports team license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.**

**Sec. 2. The bureau shall:**

- (1) negotiate for the purpose of entering; or**
- (2) delegate the authority to enter;**

**into license agreements with a professional sports franchise in order to design and issue a professional sports teams license plate authorized under section 1 of this chapter.**

**Sec. 3. After December 31, 2005, a person who is eligible to register a motor vehicle under this title is eligible to receive a specified professional sports teams license plate issued under a licensing agreement entered into under section 2 of this chapter with a specified professional sports franchise upon doing the following:**

- (1) Completing an application for a specified professional**

**sports teams license plate.**

**(2) Paying the fees under section 4 of this chapter.**

**Sec. 4. (a) The fees for a professional sports teams license plate are as follows:**

**(1) The appropriate fees under IC 9-29-5-38(d)(1), IC 9-29-5-38(d)(2), and IC 9-29-5-38(d)(3).**

**(2) An annual fee under IC 9-29-5-38(d)(4), to be determined by the bureau by rule.**

**(b) The annual fee described in subsection (a)(2) shall be:**

**(1) collected by the bureau; and**

**(2) deposited in the capital projects trust fund established by section 5 of this chapter.**

**Sec. 5. (a) The capital projects trust fund is established.**

**(b) The treasurer of state shall invest the money in the capital projects trust fund not currently needed to meet the obligations of the capital projects trust fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the capital projects trust fund. Money in the fund is continuously appropriated for the purposes of this section.**

**(c) The budget director shall administer the capital projects trust fund. Expenses of administering the capital projects trust fund shall be paid from money in the capital projects trust fund.**

**(d) On:**

**(1) June 30 of every year after June 30, 2006; or**

**(2) any other date designated by the budget director;**

**an amount designated by the budget director shall be transferred from the fund to the state general fund or to any fund established to pay bonds (as defined in IC 5-1-17-3) issued by the Indiana stadium and convention building authority created by IC 5-1-17. Money transferred to the state general fund under this subsection shall be used exclusively to fund appropriations made by the general assembly for capital projects.**

**(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

**Sec. 6. The budget agency shall adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 16. IC 9-29-5-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 38. (a) Except as provided in ~~subsection~~ **subsections (c) and (d)**, vehicles registered under IC 9-18-25 are subject to the following:

**(1) An appropriate annual registration fee.**

**(2) An annual supplemental fee of ten dollars (\$10).**

**(3) Any other fee or tax required of a person registering a vehicle under this title.**

**(b) The bureau shall distribute all money collected under the annual supplemental fee under subsection (a)(2) as follows:**

**(1) Five dollars (\$5) from each registration is appropriated to the bureau of motor vehicles for the purpose of administering IC 9-18-25.**

**(2) Five dollars (\$5) from each registration shall be deposited in the state license branch fund under IC 9-29-14.**

**(c) A vehicle registered under IC 9-18-25 that is owned by a former prisoner of war or by the prisoner's surviving spouse is exempt from the annual registration fee and the annual supplemental fee.**

**(d) A motor vehicle registered and issued a special group recognition license plate under IC 9-18-25 and IC 9-18-49 is subject to the following:**

- (1) An appropriate annual registration fee.**
- (2) An annual supplemental fee of twenty dollars (\$20).**
- (3) Any other fee or tax required of a person registering a vehicle under this title.**
- (4) An annual fee to be determined by the bureau by rule, as provided in IC 9-18-49-4(a)(2).**

SECTION 17. IC 36-7-31-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 10. A commission may establish as part of a professional sports development area any facility:

- (1) that is used in the training of a team engaged in professional sporting events; or
- (2) that is:
  - (A) financed in whole or in part by:
    - (i) notes or bonds issued by a political subdivision or issued under IC 36-10-9 or IC 36-10-9.1; or
    - (ii) a lease or other agreement under IC 5-1-17; and
  - (B) used to hold a professional sporting event.

The tax area may include a facility described in this section and any parcel of land on which the facility is located. An area may contain noncontiguous tracts of land within the county.

SECTION 18. IC 36-7-31-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 11. (a) A tax area must be initially established before July 1, 1999, according to the procedures set forth for the establishment of an economic development area under IC 36-7-15.1. A tax area may be changed **(including to the exclusion or inclusion of a facility described in this chapter)** or the terms governing the tax area may be revised in the same manner as the establishment of the initial tax area. **However, after May 14, 2005:**

- (1) a tax area may be changed only to include the site or future site of a facility that is or will be the subject of a lease or other agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17; and**
- (2) the terms governing a tax area may be revised only with respect to a facility described in subdivision (1).**

(b) In establishing or changing the tax area or revising the terms governing the tax area, the commission must make the following findings instead of the findings required for the establishment of economic development areas:

- (1) That a project to be undertaken or that has been undertaken in the tax area is for a facility at which a professional sporting event or a convention or similar event will be held.
- (2) That the project to be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.
- (3) That the project to be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established by the commission under this chapter is a special taxing district authorized by the general assembly to enable the county to provide special benefits to taxpayers in the tax

area by promoting economic development that is of public use and benefit.

SECTION 19. IC 36-7-31-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports development area fund established for the county. The allocation provision must apply to the entire tax area. The resolution must provide that the tax area terminates not later than December 31, 2027.

(b) All of the salary, wages, bonuses, and other compensation that are:

- (1) paid during a taxable year to a professional athlete for professional athletic services;
- (2) taxable in Indiana; and
- (3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) **Except as provided by section 14.1 of this chapter,** the total amount of state revenue captured by the tax area may not exceed five million dollars (\$5,000,000) per year for twenty (20) consecutive years.

(d) The resolution establishing the tax area must designate the facility and the facility site for which the tax area is established and covered taxes will be used.

(e) The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

SECTION 20. IC 36-7-31-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 14.1. (a) **The budget director appointed under IC 4-12-1-3 may determine that, commencing July 1, 2007, there may be captured in the tax area up to eleven million dollars (\$11,000,000) per year in addition to the up to five million dollars (\$5,000,000) of state revenue to be captured by the tax area under section 14 of this chapter, for up to thirty-four (34) consecutive years. The budget director's determination must specify that the termination date of the tax area for purposes of the collection of the additional eleven million dollars (\$11,000,000) per year is extended to not later than December 31, 2040. Following the budget director's determination, and commencing July 1, 2007, the maximum total amount of revenue captured by the tax area for years ending before January 1, 2028, shall be sixteen million dollars (\$16,000,000) per year, and for years ending after December 31, 2027, shall be eleven million dollars (\$11,000,000) per year.**

(b) The additional revenue captured pursuant to a determination under subsection (a) shall be distributed to the capital improvement board or its designee. So long as there are any current or future obligations owed by the capital improvement board to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency pursuant to IC 5-1-17-26(b), the capital improvement board or its designee shall deposit the additional revenue received under this

**subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.**

SECTION 21. IC 36-7-31-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 21. **Except as provided in section 14.1 of this chapter**, the capital improvement board may use money distributed from the fund only to construct and equip a capital improvement that is used for a professional sporting event, including the financing or refinancing of a capital improvement or the payment of lease payments for a capital improvement.

SECTION 22. IC 36-7-31-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 23. This chapter expires December 31, ~~2027~~ **2040**.

SECTION 23. IC 36-7-31.3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005]: Sec. 9. (a) A tax area must be initially established by resolution:

- (1) except as provided in subdivision (2) before July 1, 1999; or
- (2) before January 1, 2005, **in the case of:**
  - (A) ~~in the case of~~ a second class city; or
  - (B) the city of Marion;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. **Before May 15, 2005**, a tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. **After May 14, 2005, a tax area may not be changed and the terms governing a tax area may not be revised.** Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

- (1) Except for a tax area in a city having a population of:
  - (A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or
  - (B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public

health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 24. IC 6-9-12-9 IS REPEALED [EFFECTIVE MAY 15, 2005].

SECTION 25. [EFFECTIVE MAY 15, 2005] (a) **If a member of the board of directors of the Indiana stadium and convention building authority to be appointed under IC 5-1-17-7(a)(4) or IC 5-1-17-7(a)(5) is not appointed for the initial term on or before June 30, 2005, the governor shall appoint that member for the initial term.**

**(b) This SECTION expires July 1, 2006.**

SECTION 26. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 9-18-49-4(a)(2) and IC 9-29-5-38(d)(4), both as added by this act, the bureau of motor vehicles shall carry out the duties imposed upon it by IC 9-18-49-4(a)(2) and IC 9-29-5-38(d)(4), both as added by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

**(b) This SECTION expires the earlier of the following:**

- (1) The date rules are adopted under IC 9-18-49-4(a)(2) and IC 9-29-5-38(d)(4).**
- (2) December 31, 2006.**

SECTION 27. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 9-18-49-6, as added by this act, the budget agency shall carry out the duties imposed upon it by IC 9-18-49-6, as added by this act, under interim written guidelines approved by the director of the budget agency.**

**(b) This SECTION expires the earlier of the following:**

- (1) The date rules are adopted under IC 9-18-49-6.**
- (2) December 31, 2006.**

SECTION 28. **An emergency is declared for this act.**

(Reference is to HB 1083 as printed January 7, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

KENLEY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Concurrent Resolution 54, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.

Committee Vote: Yeas 6, Nays 0.

LONG, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Engrossed

House Bill 1179, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, between lines 5 and 6, begin a new paragraph and insert: "SECTION 4. IC 24-9-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. "Home loan" means a loan, other than an open end credit plan, ~~or~~ a reverse mortgage transaction, **or a loan described in IC 24-9-1-1**, that is secured by a mortgage or deed of trust on real estate in Indiana on which there is located or will be located a structure or structures:

- (1) designed primarily for occupancy of one (1) to four (4) families; and
- (2) that is or will be occupied by a borrower as the borrower's principal dwelling.

SECTION 5. IC 24-9-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. A person may not:

- (1) divide a loan transaction into separate parts with the intent of evading a provision of this article;
- (2) structure a home loan transaction as an open-end loan with the intent of evading the provisions of this article if the loan would be a high cost home loan if the home loan had been structured as a closed-end loan; or
- (3) engage in a deceptive act in connection with a:
  - (A) home loan; **or**
  - (B) **loan described in IC 24-9-1-1.**

SECTION 6. IC 24-9-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person who purchases or is otherwise assigned a high cost home loan is subject to all affirmative claims and any defenses, **except for an affirmative claim or defense pursuant to IC 24-9-3-7**, with respect to the high cost home loan that the borrower could assert against a creditor or broker of the high cost home loan. However, this section does not apply if the purchaser or assignee demonstrates by a preponderance of the evidence that a reasonable person exercising ordinary due diligence could not determine that the loan was a high cost home loan. A purchaser or an assignee is presumed to have exercised reasonable due diligence if the purchaser or assignee:

- (1) has in place at the time of the purchase or assignment of the subject loans, policies that expressly prohibit the purchase or acceptance of the assignment of any high cost home loans;
- (2) requires by contract that a seller or an assignor of home loans to the purchaser or assignee represents and warrants to the purchaser or assignee that either:
  - (A) the seller or assignor will not sell or reassign any high cost home loans to the purchaser or assignee; or
  - (B) the seller or assignor is a beneficiary of a representation and warranty from a previous seller or assignor to that effect;
- (3) exercises reasonable due diligence:
  - (A) at the time of purchase or assignment of home loans; or
  - (B) within a reasonable period after the purchase or assignment of home loans;

intended by the purchaser or assignee to prevent the purchaser or assignee from purchasing or taking assignment of any high cost home loans; or

- (4) satisfies the requirements of subdivisions (1) and (2) and

establishes that a reasonable person exercising ordinary due diligence could not determine that the loan was a high cost home loan based on the:

- (A) documentation required by the federal Truth in Lending Act (15 U.S.C. 1601 et seq.); and
- (B) itemization of the amount financed and other disbursement disclosures.

(b) A borrower acting only in an individual capacity may assert against the creditor or any subsequent holder or assignee of a high cost home loan:

- (1) a violation of IC 24-9-4-2 as a defense, claim, or counterclaim, after:
  - (A) an action to enjoin foreclosure or to preserve or obtain possession of the dwelling that secures the loan is initiated;
  - (B) an action to collect on the loan or foreclose on the collateral securing the loan is initiated; or
  - (C) the loan is more than sixty (60) days in default; within three (3) years after the closing of a home loan;
- (2) a violation of this article in connection to the high cost home loan as a defense, claim, or counterclaim in an original action within five (5) years after the closing of a high cost home loan; and
- (3) any defense, claim, counterclaim, or action to enjoin foreclosure or preserve or obtain possession of the home that secures the loan, including a violation of this article after:
  - (A) an action to collect on the loan or foreclose on the collateral securing the loan is initiated;
  - (B) the debt arising from the loan is accelerated; or
  - (C) the loan is more than sixty (60) days in default; at any time during the term of a high cost home loan.

(c) In an action, a claim, or a counterclaim brought under subsection (b), the borrower may recover only amounts required to reduce or extinguish the borrower's liability under a home loan plus amounts required to recover costs, including reasonable attorney's fees.

(d) The provisions of this section are effective notwithstanding any other provision of law. This section shall not be construed to limit the substantive rights, remedies, or procedural rights available to a borrower against any creditor, assignee, or holder under any other law. The rights conferred on borrowers by subsections (a) and (b) are independent of each other and do not limit each other."

Page 3, line 28, delete ",".

Page 3, line 32, delete ",".

Page 20, line 40, after "of" insert "a".

Page 29, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 27. IC 30-2-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 16. Payroll Savings Plan Administration**

**Sec. 1. As used in this chapter, "participant" means an individual who has accumulated a balance of funds with a payroll savings plan administrator through a payroll savings plan.**

**Sec. 2. As used in this chapter, "payroll savings plan" means a method provided by an employer to the employer's employees for the voluntary purchase of United States savings bonds on a regular schedule through the designation of an amount to be**

deducted each pay period until a sufficient amount accumulates to pay the purchase price of at least one (1) United States savings bond.

Sec. 3. As used in this chapter, "payroll savings plan administrator" means an organization that:

- (1) has been qualified by the Federal Reserve Bank or the Bureau of the Public Debt under 31 CFR Part 317 to sell United States savings bonds; and
- (2) operates payroll savings plans on behalf of employers for the purchase of United States savings bonds.

Sec. 4. As used in this chapter, "static balance" means an amount held by a payroll savings plan administrator for a participant who:

- (1) is not making allotments of payroll deductions to the payroll savings plan administrator; but
- (2) has not terminated the individual's directions to the participant's employer or the employer's payroll savings plan administrator to purchase United States savings bonds for the individual when a sufficient balance accumulates to pay the purchase price.

Sec. 5. Subject to this chapter, a payroll savings plan administrator is entitled to reimbursement from a static balance for reasonable expenses incurred in the performance of static balance administration services beginning with the year after the participant ceases to make allotments of payroll deductions to the payroll savings plan administrator.

Sec. 6. Section 5 of this chapter applies only to an account in which the static balance does not exceed fifty dollars (\$50).

Sec. 7. Section 5 of this chapter does not apply to accounts containing a static balance that would otherwise be reported to the state under IC 32-34-1-26 as Indiana property.

Sec. 8. The maximum charge that may be imposed on an account with a static balance is one dollar (\$1) per month."

Renumber all SECTIONS consecutively.

(Reference is to HB 1179 as printed January 26, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

Paul, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Economic Development and Technology, to which was referred Engrossed House Bill 1137, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 6, line 19, delete "and".

Page 6, line 20, delete "networks." and insert "**networks;**".

Page 6, between lines 20 and 21, begin a new line block indented and insert:

"(4) data input and storage; and

(5) information system applications."

Page 6, line 40, delete "Align" and insert "**Establish the standards for**".

Page 6, delete lines 41 through 42.

Page 7, line 1, delete "(3)" and insert "(2)".

Page 7, line 4, delete "(4)" and insert "(3)".

Page 7, line 4, after "best" insert "**and most appropriate**".

Page 7, line 6, delete "(5)" and insert "(4)".

Page 7, line 8, delete "(6)" and insert "(5)".

Page 7, line 8, delete "Make it easy" and insert "**Provide for the technology and procedures**".

Page 7, line 13, delete "all".

Page 7, line 14, after "technology" insert "**at the request of the budget agency**".

Page 7, line 16, after "of" insert "**significant**".

Page 7, line 18, delete "known as accessIndiana".

Page 7, line 19, delete "solely".

Page 7, line 19, delete "the carrying out of the".

Page 7, line 20, delete "essential".

Page 7, line 21, delete "each".

Page 7, line 22, delete "agency" and insert "**agencies**".

Page 7, line 22, delete "in conjunction with the information technology".

Page 7, delete lines 23 through 24.

Page 7, line 25, delete "any service provided by the office, including" and insert "**services that may be requested by**".

Page 7, delete line 26.

Page 7, line 27, delete "officer, upon request to".

Page 7, line 36, delete "Monitor state agency information technology activities." and insert "**Review projects, architecture, security, staffing, and expenditures**".

Page 7, line 40, delete "Develop and maintain guidelines for the hiring of" and insert "**Advise the state personnel department on guidelines for information technology staff for state agencies**".

Page 7, delete line 41.

Page 8, line 1, after "agencies" insert "**upon request**".

Page 8, line 10, after "other" insert "**information technology**".

Page 8, line 11, delete "chief information officer of the office appointed under" and insert "**governor**".

Page 8, delete line 12.

Page 8, line 20, delete "of all" and insert "**for**".

Page 8, line 22, delete "in the areas of:".

Page 8, delete lines 23 through 26.

Page 8, run in lines 22 through 27.

Page 8, line 27, delete "all".

Page 8, line 27, delete "areas and".

Page 8, delete lines 29 through 42.

Page 9, delete lines 1 through 19.

Page 9, line 20, delete "(h)" and insert "**Sec. 4**".

Page 9, line 20, delete "council" and insert "**office**".

Page 9, line 20, delete "a".

Page 9, line 20, delete "fee" and insert "**fees**".

Page 9, line 21, delete "user" and insert "**revenues**".

Page 9, delete line 22.

Page 9, lines 23, delete "established under this section is" and insert "**are**".

Page 9, line 25, delete "(a)".

Page 9, line 26, after "office" insert "**when directed by the governor**".

Page 9, delete lines 27 through 42.

Page 10, delete lines 1 through 10.

Page 10, line 11, delete "require" and insert **"request"**.

Page 10, line 15, delete "shall" and insert **"may"**.

Page 10, line 18, delete "information technology resource".

Page 10, line 18, after "inventory" insert **"of all significant information technology hardware, software, personnel, and information technology contracts."**

Page 10, delete lines 19 through 20.

Page 10, line 21, delete "(a)".

Page 10, line 21, delete "one (1) or more" and insert **"a"**.

Page 10, line 21, delete "funds" and insert **"fund"**.

Page 10, delete lines 23 through 24.

Page 10, line 25, delete "The" and insert **"If requested by a political subdivision, the"**.

Page 10, line 26, delete "Develop an overall strategy and architecture for the use of" and insert **"Subject to the approval of the budget agency, develop a schedule of fees for agencies using services of the office."**

Page 10, delete line 27.

Page 10, line 28, delete "the operations".

Page 10, line 29, delete "of the various".

Page 10, line 29, delete "systems used by a" and insert **"systems."**

Page 10, delete line 30.

Page 10, line 31, delete "services to" and insert **"services."**

Page 10, delete line 32.

Page 10, line 33, delete "a political subdivision's".

Page 10, line 34, delete "information technology expenditures if" and insert **"expenditures."**

Page 10, delete line 35.

Page 10, line 39, delete "require" and insert **"request"**.

Page 11, delete lines 1 through 5.

Page 11, line 6, delete "(d)" and insert **"(c)"**.

Page 11, line 8, delete "government with" and insert **"government."**

Page 11, delete lines 9 through 10.

Page 11, line 12, delete "The office shall develop standards that are compatible" and insert **"The office shall appoint a group to develop standards that are compatible with principles and goals contained in the electronic and information technology accessibility standards adopted by the architectural and transportation barriers compliance board under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended. The office shall adopt rules under IC 4-22-2 concerning the standards developed under this section. Those standards must conform with the requirements of Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended."**

**(b) The group shall consist of at least the following:**

**(1) A representative of an organization with experience in and knowledge of assistive technology policy.**

**(2) An individual with a disability.**

**(3) Representatives of the judicial and legislative branches of state government.**

**(4) Representatives of the administrative branch of state government.**

**(5) At least three (3) representatives of local units of government.**

**(c) If an agency cannot immediately comply with the information technology accessibility standards, the agency shall submit a plan for undue burden with timelines for compliance. The plan must provide alternative means for accessibility during the period of noncompliance.**

**(d) Notwithstanding any other law, the standards developed under subsection (a) apply to the executive, legislative, judicial, and administrative branches of state and local government."**

Page 11, delete lines 13 through 42.

Page 12, delete lines 1 through 11.

Page 29, line 9, delete "office of technology" and insert **"the coordinating unit established under IC 20-12-12-3"**.

Page 29, line 22, delete ", which must include the chief" and insert **","**.

Page 29, delete line 23.

Page 29, delete lines 41 through 42.

Page 30, delete lines 1 through 4.

Page 30, line 5, reset in roman **"(b)"**.

Page 30, line 5, delete **"(c)"**.

Page 30, line 8, reset in roman **"(c)"**.

Page 30, line 8 delete **"(d)"**.

Page 30, line 11, reset in roman **"(d)"**.

Page 30, line 11, delete **"(e)"**.

Page 35, line 9, delete "IC 5-21" and insert **"IC 5-21-6"**.

Page 35, line 16, after "commission;" insert **"or"**.

Page 35, delete line 17.

Page 35, line 18, delete **"(4)"** and insert **"(3)"**.

Page 35, line 24, after "commission;" insert **"or"**.

Page 35, delete line 25.

Page 35, line 26, delete **"(4)"** and insert **"(3)"**.

Page 35, line 32, after "commission;" insert **"or"**.

Page 35, delete line 33.

Page 35, line 34, delete **"(4)"** and insert **"(3)"**.

Page 35, line 40, after "fund;" insert **"and"**.

Page 35, delete line 41.

Page 35, line 42, delete **"(4)"** and insert **"(3)"**.

Page 36, line 1, delete "one (1) or more rotary funds" and insert **"a rotary fund"**.

Page 36, line 3, delete "or rotary funds are" and insert **"is"**.

Page 36, between lines 4 and 5, begin a new paragraph and insert:

**"(e) Funds not exceeding five million dollars (\$5,000,000) in any fund or account of intelenet or the enhanced access review committee shall be transferred to the office of technology. Funds in excess of five million dollars (\$5,000,000) shall be transferred to the state general fund."**

Page 36, line 5, delete **"(e)"** and insert **"(f)"**.

Page 36, line 8, after "commission;" insert **"or"**.

Page 36, delete line 9.

Page 36, line 10, delete **"(4)"** and insert **"(3)"**.

Page 36, line 13, delete **"(f)"** and insert **"(g)"**.

Page 36, after line 13, begin a new paragraph and insert:

**"SECTION 42. [EFFECTIVE JULY 1, 2005] (a) It is the intent of the general assembly that IC 4-13.1 contains the complete law of the state governing the office of technology. The office of technology created under executive order 05-17 ceases to exist in compliance with section 15 of executive order 05-17."**



(b) After June 30, 2005, no funds may be expended and no actions may be taken by the office of technology created under executive order 05-17.

(c) After June 30, 2005, a reference in any law, rule, contract, or other document or record to the office of technology established under executive order 05-17 shall be treated as a reference to the office of technology established by IC 4-13.1-2-1, as added by this act.

(d) On July 1, 2005, the property and obligations of the office of technology established under executive order 05-17 are transferred to the office of technology established by IC 4-13.1-2-1, as added by this act.

(e) An action taken by the office of technology established under executive order 05-17 before July 1, 2005, shall be treated after June 30, 2005, as if the action had been taken originally by the office of technology established by IC 4-13.1-2-1, as added by this act.

(f) Money that is in any fund or account administered by the office of technology established under executive order 05-17 shall be transferred to the office of technology established by IC 4-13.1-2-1, as added by this act.

(g) On July 1, 2005, individuals who were employees of the office of technology established under executive order 05-17 on June 30, 2005, become employees of the office of technology established by IC 40-13.1-2-1, as added by this act.

(h) This SECTION expires July 1, 2006."

Renumber all SECTIONS consecutively.

(Reference is to HB 1137 as reprinted February 8, 2005.)  
and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

FORD, Chair

Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 37 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS  
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 39 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS  
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Bills 88, 172, and 212 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 38 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS  
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolutions 43 and 60 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bills 341 and 569 with amendments and the same are herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS  
Principal Clerk of the House

REPORT OF THE  
PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 609:

Conferees: Kenley, Chair and Hume

GARTON  
Date: 4/4/05  
Time: 2:22 p.m.

REPORT OF THE  
PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 578:

Conferees: Hershman, Chair and Mrvan  
Advisors: Kenley and Hume

GARTON  
Date: 4/4/05  
Time: 3:17 p.m.

REPORT OF THE  
PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 213:

Conferees: M. Young, Chair and Hume  
Advisors: Riegsecker and Broden

GARTON  
Date: 4/4/05  
Time: 2:18 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 304:

Conferees: Wyss, Chair and Craycraft  
Advisors: Merritt and Rogers

GARTON  
Date: 4/4/05  
Time: 2:20 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 590:

Conferees: Riegsecker, Chair and Simpson  
Advisors: Dillon and Hume

GARTON  
Date: 4/4/05  
Time: 2:21 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 30:

Conferees: Alting, Chair and Antich-Carr

GARTON  
Date: 4/4/05  
Time: 3:00 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 79:

Conferees: Wyss, Chair and Simpson

GARTON  
Date: 4/4/05  
Time: 2:34 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 196:

Conferees: Wyss, Chair and Rogers

GARTON  
Date: 4/4/05  
Time: 2:19 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 242:

Conferees: Long, Chair and Howard

GARTON  
Date: 4/4/05  
Time: 2:36 p.m.

### MESSAGE FROM THE GOVERNOR

Madam President and Members of the Senate: On April 1, 2005, I signed the following enrolled acts into law: HEA 1032.

MITCHELL E. DANIELS, JR.  
Governor

### Engrossed House Bill 1056

Senator Weatherwax called up Engrossed House Bill 1056 for second reading. The bill was read a second time by title.

#### SENATE MOTION (Amendment 1056-1)

Madam President: I move that Engrossed House Bill 1056 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-42-5.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:  
Sec. 2. (a) Except as provided in subsection (b), this chapter does not apply to a food establishment when the food establishment's food handling activities are limited solely to one (1) or more of the following:

(1) Heating or serving precooked ~~hot dog or sausage products, popcorn, nachos, pretzels, or frozen pizza~~ foods.

(2) Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal.

(3) Preparing or serving nonalcoholic or alcoholic beverages **that are not potentially hazardous beverages** or ice.

~~(4) Grinding coffee beans.~~

~~(5) Packaging~~ (4) Preparing or serving packaged or

unpackaged foods that are not potentially hazardous foods, in accordance with rules adopted by the executive board, including elephant ears, funnel cakes, cotton candy, confectionaries, baked goods, popcorn, and chips and grinding coffee beans;

(6) Heating when it is the only preparation step for a bakery product;

(7) (5) Providing prepackaged food in its original package.

(b) This subsection does not apply to a pharmacy that is a food establishment that provides only prepackaged food products for sale. A food establishment that has more than ten thousand (10,000) square feet in total retail sales space at the food establishment location must comply with this chapter."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1056 as printed April 1, 2005.)

#### WEATHERWAX

Motion prevailed. The bill was ordered engrossed.

Senator Waltz, who had been excused, was present.

#### Engrossed House Bill 1063

Senator Bray called up Engrossed House Bill 1063 for second reading. The bill was read a second time by title.

#### SENATE MOTION (Amendment 1063-2)

Madam President: I move that Engrossed House Bill 1063 be amended to read as follows:

Page 2, line 12, delete "use eminent".

Page 2, line 13, delete "domain to acquire property for public use or to".

Page 2, line 14, after "property" insert "**acquired by eminent domain**".

(Reference is to EHB 1063 as printed April 1, 2005.)

BRAY

Motion prevailed.

#### SENATE MOTION (Amendment 1063-1)

Madam President: I move that Engrossed House Bill 1063 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

"SECTION 1. [EFFECTIVE JULY 1, 2005] Sec. 1. (a) As used in this section, "committee" refers to the interim study committee on eminent domain established by this SECTION.

(b) There is established the interim study committee on eminent domain. The committee shall study issues related to the use of the eminent domain power to take private property for commercial use.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to

take action on any measure, including final reports.

(e) This SECTION expires November 1, 2005."

(Reference is to EHB 1063 as printed April 1, 2005.)

BRODEN

Upon request of Senator Broden the President ordered the roll of the Senate to be called.

The President of the Senate voted nay, thus casting the deciding vote and establishing a majority and a minority.

Roll Call 345: yeas 24, nays 25.

Motion failed. The bill was ordered engrossed.

#### Engrossed House Bill 1075

Senator Miller called up Engrossed House Bill 1075 for second reading. The bill was read a second time by title.

#### SENATE MOTION (Amendment 1075-1)

Madam President: I move that Engrossed House Bill 1075 be amended to read as follows:

Page 1, line 3, delete "chapter," and insert "**chapter and any other law, and except as provided in subsection (b),**".

Page 1, line 4, after "insurance" insert "**that is issued after June 30, 2005,**".

Page 2, delete lines 18 through 19.

Page 2, line 20, delete "(H)" and insert "**(G)**".

Page 2, line 31, delete "Notwithstanding subsection (a):".

Page 2, line 32, delete "(1) an" and insert "**An**".

Page 2, run in lines 31 through 32.

Page 2, line 33, delete "for:" and insert "**for a:**".

Page 2, line 34, delete "(A) a", begin a new line block indented and insert:

"**(1)**".

Page 2, line 34, after ";" insert "**or**".

Page 2, line 35, delete "(B) a", begin a new line block indented and insert:

"**(2)**".

Page 2, line 35, delete "disability; or" and insert "**disability**".

Page 2, delete lines 36 through 39.

Page 2, line 42, delete "condition, complication, service, or treatment" and insert "**condition or complication**".

Page 3, line 24, after "issued" insert "**after June 30, 2005,**".

Page 3, line 29, delete "chapter," and insert "**chapter and any other law, and except as provided in subsection (e),**".

Page 3, line 36, delete "policy" and insert "**certificate**".

Page 4, delete lines 20 through 21.

Page 4, line 22, delete "(H)" and insert "**(G)**".

Page 4, line 30, after "(d)" insert "**An offer of coverage under a policy that includes a waiver under this section does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.**

(e) A policy described in subsection (a) may not include a

**waiver of coverage for a:**

- (1) mental health condition; or**
- (2) developmental disability.**

**(f)".**

Page 4, line 31, delete "condition," and insert "**condition or complication**".

Page 4, line 32, delete "complication, service, or treatment".

Page 4, line 37, delete "(e)" and insert "**(g)**".

Page 4, delete line 42.

Page 5, delete lines 1 through 3.

Page 5, line 4, delete "(g)" and insert "**(h)**".

Page 5, line 8, delete "(h)" and insert "**(i)**".

Page 8, line 18, delete ";" and insert ", **a majority of whom were not offered coverage for health care services (as defined in IC 27-13-1-18) by:**

**(i) the employer; or**

**(ii) a parent, a subsidiary, or an affiliate of the employer;**

**during the preceding calendar year; and".**

Page 8, line 21, delete "; and" and insert ".".

Page 8, delete lines 22 through 24.

Page 12, line 42, delete ";" and insert ", **a majority of whom were not offered coverage for health care services by:**

**(i) the employer; or**

**(ii) a parent, a subsidiary, or an affiliate of the employer;**

**during the preceding calendar year; and".**

Page 13, line 2, delete "; and" and insert ".".

Page 13, delete line 3 through 5.

Page 14, delete lines 37 through 39.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1075 as printed April 1, 2005.)

MILLER

Motion prevailed. The bill was ordered engrossed.

**Engrossed House Bill 1098**

Senator Dillon called up Engrossed House Bill 1098 for second reading. The bill was read a second time by title.

SENATE MOTION  
(Amendment 1098-1)

Madam President: I move that Engrossed House Bill 1098 be amended to read as follows:

Page 2, line 25, delete "(1)" and insert "**(A)**".

Page 2, line 25, after "contract" insert "**that accepts the return of expired drugs**".

Page 2, line 26, delete "(2)" and insert "**(B)**".

Page 2, block indent lines 28 through 33.

Page 2, line 33, after "pharmacy." insert "**The standards and procedures do not apply to vaccines that prevent influenza and medicine used for the treatment of malignant hyperthermia.**".

(Reference is to EHB 1098 as printed April 1, 2005.)

DILLON

Motion prevailed. The bill was ordered engrossed.

**Engrossed House Bill 1265**

Senator Dillon called up Engrossed House Bill 1265 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Engrossed House Bill 1325**

Senator Server called up Engrossed House Bill 1325 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Engrossed House Bill 1329**

Senator Server called up Engrossed House Bill 1329 for second reading. The bill was read a second time by title.

SENATE MOTION  
(Amendment 1329-1)

Madam President: I move that Engrossed House Bill 1329 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 2 with "[EFFECTIVE UPON PASSAGE]".

Page 5, after line 32, begin a new paragraph and insert:  
"**SECTION 3. An emergency is declared for this act.**".  
(Reference is to EHB 1329 as printed April 1, 2005.)

SERVER

Motion prevailed. The bill was ordered engrossed.

**Engrossed House Bill 1375**

Senator Paul called up Engrossed House Bill 1375 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

## ENGROSSED HOUSE BILLS ON THIRD READING

**Engrossed House Bill 1069**

Senator M. Young called up Engrossed House Bill 1069 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 346: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

**Engrossed House Bill 1126**

Senator Riegsecker called up Engrossed House Bill 1126 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

The bill was read a third time by sections and placed upon its

passage. The question was, Shall the bill pass?

Roll Call 347: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1129**

Senator Zakas called up Engrossed House Bill 1129 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 348: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1141**

Senator Harrison called up Engrossed House Bill 1141 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 349: yeas 34, nays 15. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1142**

Senator Kenley called up Engrossed House Bill 1142 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 350: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1159**

Senator Zakas called up Engrossed House Bill 1159 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 351: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1198**

Senator Kenley called up Engrossed House Bill 1198 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 352: yeas 48, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1219**

Senator Paul called up Engrossed House Bill 1219 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 353: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **SENATE MOTION**

Madam President: I move that the Senate rescind its action whereby it adopted the Motion to Dissent on Engrossed Senate Bill 230 and that said Motion be withdrawn.

LUBBERS

Motion prevailed.

#### **SENATE MOTION**

Madam President: I move that Senators Craycraft and Heinold be added as cosponsors of Engrossed House Bill 1056.

WEATHERWAX

Motion prevailed.

#### **SENATE MOTION**

Madam President: I move that Senator Craycraft be added as cosponsor of Engrossed House Bill 1250.

WEATHERWAX

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Hershman be added as cosponsor of Engrossed House Bill 1141.

HARRISON

Motion prevailed.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 329:

Conferees: Gard, Chair and Craycraft

GARTON

Date: 4/5/05

Time: 3:50 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 298:

Conferees: M. Young, Chair and Hume

Advisors: Gard, and R. Young

GARTON

Date: 4/5/05

Time: 3:48 p.m.

### REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 49:

Conferees: Ford, Chair and Broden

Advisors: Drozda and Mrvan

GARTON

Date: 4/5/05

Time: 3:45 p.m.

### MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on April 5, 2005, signed the following Senate Enrolled Acts: 12, 44, 76, 98, 101, 193, 225, 265, 267, 453, 465, 484, and 572.

ROBERT D. GARTON  
President Pro Tempore

### MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on April 5, 2005, signed the following House Enrolled Acts: 1183 and 1653.

ROBERT D. GARTON  
President Pro Tempore

## MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Bills 47, 117, 164, 165, and 197 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

## MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bills 54, 63, 66, 67, 77, 100, 106, 132, 139, 169, 171, 179, 195, and 198 with amendments and the same are herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS  
Principal Clerk of the House

## SENATE MOTION

Madam President: I move that Senators Sipes and Breaux be added as cosponsors of Engrossed House Bill 1198.

KENLEY

Motion prevailed.

## SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Wednesday, April 6, 2005.

GARTON

Motion prevailed.

The Senate adjourned at 4:36 p.m.

MARY C. MENDEL  
Secretary of the Senate

REBECCA S. SKILLMAN  
President of the Senate